

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARRELL HARGROVE,

Defendant.

Case No. 4:13-cr-00478-YGR

**ORDER DENYING UNITED STATES'
APPLICATION FOR STAY OF RELEASE
ORDER; SETTING BRIEFING SCHEDULE
AND HEARING ON APPEAL OF MAGISTRATE
JUDGE'S RELEASE ORDER**

Re: Dkt. No. 57

After a lengthy hearing before Magistrate Judge Kandis A. Westmore, the government appeals an order granting defendant Darrell Hargrove's motion for temporary release. (Dkt. No. 57.) The government's primary complaint is that Hargrove is a flight risk and a danger to the community and that his medical condition does not warrant a change in condition. Under normal circumstances, the Court might agree. Today, it does not.

Upon the docketing of the appeal and request for a stay, the Court reviewed the submission and the medical records of the defendant, as well as the bases of Magistrate Judge Westmore's decision, and the concerns of probation. As detailed in Magistrate Judge Westmore's order, Hargrove has a condition which appears to make him more susceptible to COVID-19 than others. (See Dkt. No. 58 at 2-3, 4-5.) Much of the government's arguments' focus is general. With respect to being a flight risk, the government does not offer any specifics of note or concern, especially where the order of Magistrate Judge Westmore requires that Hargrove be on a 24-hour lock down, where he will be electronically monitored. The notion that he would be roaming around the community is unfounded. With respect to the nature of the Hargrove's crime, while the sale of controlled substances is, of course, dangerous to the community, the crime does not involve one of violence to a person.

The government's general arguments do not impact the ongoing realities of the pandemic. In fact, some of the decisions cited were issued before confirmed cases in the jail. On April 8, 2020, Santa Rita County Jail reported three positive cases of COVID-19. The next day, on


1 April 9, 2020, that number increased to 12 positive cases. And today, another day later, there are
2 now 15 positive cases of COVID-19 in the jail. This Order does not take issue with the
3 procedures employed at the jail. However, with a particularly susceptible defendant, where
4 conditions can be imposed to ensure his presence at court proceedings, given the national
5 emergency, the analysis changes.

6 Accordingly, the Court **DENIES** the United States' application for a stay of the release
7 order pending an appeal of Magistrate Judge Westmore's order releasing Hargrove. The Court
8 further **SETS** a hearing via the Zoom platform on the appeal of Magistrate Judge Westmore's
9 release order for **Tuesday, April 14, 2020 at 10:15 a.m.** The defendant shall appear
10 electronically. The Courtroom Deputy will email counsel the details for accessing the hearing via
11 the Zoom platform on Monday, April 13, 2020. Any response from Hargrove to the government's
12 filing shall be made on or before **Monday, April 13, 2020 at 10:00 a.m.**

13 At the hearing, the Court is prepared to address whether additional restrictions are required
14 beyond those ordered by Magistrate Judge Westmore.

15 **IT IS SO ORDERED.**

16 Dated: April 10, 2020

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18 **YVONNE GONZALEZ ROGERS**
19 **UNITED STATES DISTRICT JUDGE**
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